

Guidelines January-June 2010

**Explanatory Notes concerning the Implementation of the State
Aid Mechanism for the Importation of Specific Food Products**

Temporary State Aid

Introduction

During negotiations it was agreed that a special Temporary State Aid regime shall be put in place to support the purchase of imported agricultural products that before accession were benefiting from export refunds or imported from third countries without duties on the basis of traditional trade and consumption habits.

Temporary State Aid – Tomato Products

The state aid earmarked for Tomato Products in 2010 shall be distributed in the following manner:-

Product	Jan-Jun 2010 Euros
Prepared Tomatoes Dry Matter > 30% in packs > 50kg CN Code 20029091	42,000
Total	42,000

Allocation of the Subsidies

The subsidies will be distributed as follows:-

90% recognized importers

10% new entrants

Definition of Recognized Traditional Importers

Recognized traditional importers shall mean importers who are traders, natural or legal persons, individuals or groups who have imported an average of 50 tons per annum of the listed products in at least two of the previous three calendar years and who prove that they possess the necessary facilities to store and handle the products in question. The applicant must provide the relevant documentation to prove the amounts imported by the applicants during the previous years.

Definition of New Importers

New importers shall mean importers who are traders, natural or legal persons, individuals or groups who have imported in the product concerned, for at least one year during the previous two calendar years and who prove that they possess the necessary facilities to store and handle the products in question. The applicant must provide the relevant documentation to prove the amounts imported by the applicants during the previous years.

Eligibility for State Aid

In order to be eligible for state aid importers will be asked to fill in the relevant application forms. The application form will require information which will assist the authorities in assessing the eligibility of the applicant and will also require information pertaining to the purchase intentions of the applicant for the next six months. Only products imported between January – June 2010 will be eligible for State Aid.

Deadline for Submission of Application Forms

All application forms containing the relevant data will be submitted to the relevant authorities between 15th February 2010 till 26th February from 8.00a.m. to 12.00p.m. for imports coming during the period of January to June 2010.

Submission of Tomatoes Declaration (Annex I)

Producers are requested to take note of the declaration found in Annex I. This declaration can also be downloaded from the following website: <http://www.mrra.gov.mt/downloads.asp> and is to be filled in together with the application.

Validity of Eligibility

Once eligibility is determined, it will remain valid for 12 months. Therefore eligibility data need only be submitted once a year.

Depositing of Security with Application for State Aid

In applying for state aid a security of € 20.00 per tonne should be deposited by the applicant on the amount he is applying for. This security must be in Euro currency. The following details are important:

- i. **Bank Guarantee should be addressed to:** The Head, The Paying Agency, Temporary State Aid Unit, Ministry for Resources and Rural Affairs, Block A, Luqa Road, Qormi.
- ii. **Account:** The company's name and Director. This information should tally with the information found on the application form.
- iii. **Description:** State Aid on Imports.
- iv. **Expiry Date:** 30th September 2010.

The Bank Guarantee should be deposited with the relevant authority upon application and will be released as follows:

- 50% of the security will be released once the importer has imported a minimum of 50% of the allocated tons. If the importer prefers that the Bank Guarantee is not amended once the 50% of the allocated tons are imported, the importer should inform the State Aid Unit in writing;
- The balance will be released once all the tons applied for are imported.

- The pro-rata amount for any unallocated quota is released immediately. If the importer prefers that the Bank Guarantee is not amended, the importer should inform the State Aid Unit in writing.

However, a 5% level of tolerance (i.e. 5% below the ceiling allocated) and a *force majeure* clause based on Regulation (EC) No. 376/2008 is taken into consideration. Please note that the 5% level of tolerance is not applicable to importers who do not import any of the tonnes allocated.

Natural disasters and other cases beyond control are also taken into consideration.

State Aid to be given only on the Importation of the Listed Products

In the case of prepared tomatoes dry matter content > 30% in packs > 50kg compensation is to be given only on the importation of the actual products. No compensation will be given to processed or ready mixed products containing any of these materials.

No State Aid for Re-Exports

No state aid will be given to any products that are to be re-exported without undergoing further processing in Malta irrespective of the country of destination.

State Aid for Exports

State aid will however be considered for prepared tomatoes dry matter content > 30% in packs > 50kg which are to be used for the processing of products sold outside Malta but within the European Community. Exports of such products to third country destinations will not be eligible for state aid.

State Aid for Imports making use of EU Import Quotas

State aid on imports from non-EU countries making use of Community Quotas will be eligible for state aid equivalent to the CET rate paid by the importer on the amount given as a Community Quota. The maximum amount to be given will however not exceed the state aid rate per tonne given for purchases outside the Community Quota. The date of the exchange rate used to determine whether the amount exceeds the state aid rate or not, will be the same as the Customs Stamp.

The same principle applies to those products of third country origin purchased from EU operators making use of EU third country quotas.

Point of Delivery

The relevant date of delivery for the purposes of the granting of state aid will be the date of customs clearance in Malta. Products stored within the Freeport facility will not be considered to be goods delivered to Malta.

Documents to be presented to the Ministry for Resources and Rural Affairs

A Regular Shipping Line is defined as

“a regular service which carries goods in vessels that apply only between ports situated in the customs territory of the Community and may not come from, go to or call at any points outside this territory or in a free zone.” (*Article 313a of the Customs Code Implementing Procedures*)

A Non-Regular Shipping Line is a vessel that does not fulfil the criteria that apply to a Regular Shipping Line.

For deliveries originating from the EU and arriving in Malta in full load containers by Non-Regular Shipping Lines:

- Copy of the IntraStat Form;
- Copy of the Original Invoice on a supplier's letterhead describing the products in English and with the CN Codes noted down by the supplier;
- T2L with the Customs Stamp of Malta. Where the invoice includes the statement that the goods declared are in free circulation, the T2L is not required. In this case for State Aid benefits, the said Invoice should carry the Customs Stamp of Malta. The officer at Customs is to indicate the date of removal from port, the Trailer number and vessel name.

For deliveries originating from the EU and arriving in Malta in groupages:

- Copy of the IntraStat Form;
- Copy of the Original Invoice on a supplier's letterhead describing the products in English and with the CN Codes noted down by the supplier;
- Cumulative T2L and a document describing the groupage or the Individual T2L. The T2L must have the Customs Stamp of Malta.

For deliveries originating from the EU and arriving in Malta by Regular Shipping Lines.

- Copy of the IntraStat Form;
- Copy of the Original Invoice on a supplier's letterhead describing the products in English and with the CN Codes noted down by the supplier;
- Since for Regular Shipping Lines no T2Ls are required, it is the duty of the importer to ask for the Customs Stamp on the Invoice for State Aid purposes, before deliveries are customs cleared. Please note that Customs will not stamp the Invoice on any other date. The officer at Customs is to indicate the date of removal from port, the Trailer number and vessel name.

For imports originating from Non-EU Countries and arriving in Malta:

- Copy of the SAD;
- Copy of the Original Invoice on a supplier's letterhead describing the products in English and with the CN Codes noted down by the supplier.

Claims for payment should be submitted to the Ministry for Resources and Rural Affairs not later than the first week after each month.

Point of Payment of State Aid

All state aid will be paid within a three-month period following the customs clearance of the product to Malta. If required the Ministry for

Resources and Rural Affairs may ask for proof that all materials purchased have been distributed and consumed in Malta. Payments will be effected through the Paying Agency, MRRA in EUR.

Distribution in case of Over Subscription for State Aid

The amounts (in tons) that qualify for state aid will be according to the ceilings established in the Treaty of Accession and will, in the normal course of events, be allocated on a six-month basis whereby factors such as seasonality will be taken into account. In case of an over subscription for the state aid available for the period in question, the state aid will be distributed in proportion to the quantities imported by the applicants during the previous calendar year.

Allocation of State Aid

Under no circumstances can individual allocations be assigned or transferred.

The Allocation of State Aid for 2010

The amount of state aid per tonne will be set on a six monthly basis. The following allocations will therefore be valid for the period January – June 2010:

Product	Euro per Tonne
Prepared Tomatoes Dry Matter > 30% in packs > 50kg	70 euros or equivalent of CET rate paid per tonne, whichever is the lowest

The tonnage which qualifies for state aid during the period January – June 2010 is as follows:-

Product	Tonnage
Prepared Tomatoes Dry Matter > 30% in packs > 50 kg	600

Any amounts imported over and above the indicated tonnage above will not qualify for state aid.

Right of Review

The authorities have the right to review the situation at any point in time and take any remedial / corrective measures as may be required. In case of any such action by the authorities all registered importers will be given adequate notice.